

The Library of Congress'

EARLY STATE RECORDS PROJECT

converted from the original microfilm held by the
Vincent C. Immel Law Library, Saint Louis University

through the generous support of a grant from the

Council on Library and Information Resources

W. E. B. DUBOIS
Cyclops # 24

A DIALOGUE

BETWEEN

A COLONEL OF THE MILITIA

AND

A Militiaman,

IN RELATION TO

THE RIGHTS OF MILITIAMEN,

AND

The Execution of the "Six Militia-men,"

SHOT BY THE ORDER OF

GENERAL JACKSON.

F. 046
D 536

PREFACE.

The deep interest produced throughout the nation since the publication of the documents transmitted to the House of Representatives by the War Department, has induced Colonel Polk to publish in the Baltimore Republican and United States Telegraph, a vindication of General Jackson. It is designed to examine the arguments and facts contained in this defence of Gen. Jackson. It is due to Colonel Polk to say, that he has embodied in his address all that has been or can be said in justification of the execution of these men. Colonel Polk is, in this dialogue, made to use his own arguments, and the private to reply to them. Thus, a full view of the whole ground is presented to the reader.

Col. Polk, it is hoped, is treated with all that respect which he is so justly entitled to.

DIALOGUE,

&c. &c. &c.

PRIVATE. The friends of truth, civil liberty and humanity rejoice that a gentleman of your acquirements has assumed here, at the seat of the general government, where you can avail yourself of the collected wisdom of your political associates the vindication of Gen. Jackson.

COL. POLK. Coming from the State in which General Jackson resides, being his personal friend, I have assumed that duty on myself. No man has ever been more misrepresented and slandered by his political enemies than Gen. Jackson.

PRIVATE. Pardon me, there are men in this nation, great and distinguished citizens, whose whole lives have been actively engaged, at home and abroad, in vindicating its honor and promoting its prosperity, who have been more basely slandered than Gen. Jackson; misrepresented and slandered even by him without the semblance of truth. You well know, that, forgetting what he owed to his own dignity, and goaded on by disappointed pride and vaulting ambition, he became the public accuser and traducer of successful rivals; that he charged Mr. Clay and his friends with making an insidious attack on the independence and political integrity, and gave up the name of Mr. Buchanan as the person to prove that such dishonorable overtures were made. You know that Mr. Buchanan has denied, both in his address to the public and on the floor of Congress, that he has knowledge of such overtures, or that he ever communicated any thing to General Jackson, authorizing him to say that such corrupt propositions were made through him. You know with what industry he gave currency, not only in taverns, in steamboats, but even at his own fire-side, to the charges that Mr. Adams and Mr. Clay were elevated to the distinguished stations they now occupy, by corruption, by bargain, by management, by intrigue. You know that Mr. Clay, in his manly appeal to the people, has furnished the most satisfactory proof of his innocence, of the falsehood of the imputation. You know that the partizans of G still continue to deluge the country with newspapers, portraying in the most attractive, these confuted falsehoods. You know that the honor of this people, while representing its interest, at the Supreme Court, has been charged by a vile slanderer, high in the Democratic party, with a plot to sacrifice the chastity of an American female to the imperial lust of the Emperor of all the Russias. Gen. Jackson has been slandered, they who respect our national character complain of the prostitution of the press, but neither he nor his party has the right to complain if his own material of political warfare, has been against himself; and if his aspirations after power shall be attained by the same unhallowed means which he applied to the destruction of his rivals, whose political condemnation must precede his elevation to the Presidency.

COL. POLK. I am surprised that any candid and intelligent man, for a moment, should doubt General Jackson's correctness in relation to the execution of the militia men.

PRIVATE. This remark excites no surprize in me. Viewing his conduct as you do, through the medium of personal attachment and state pride, excited by the collisions of party accrimony, I can readily suppose you deem all to be divested of candour and intelligence, who do not, like you, applaud this deed, and believe all to have candour and intelligence, who see nothing in this tragedy but a display of that Roman virtue which would sacrifice a child at the shrine of the public safety. Rely on it, there are "candid and intelligent men," not swayed by personal attachment, free from sectional pride, who denounce the execution of these unprotected militia men, as *lawless, unprecedented and sanguinary*. Pardon the strength of this language. I design not to be offensive to you. Such a topic would warm the heart of an anchorite and soften that of a misanthrope.

COL. POLK. My object is to convince you. The warmth of your language, I am sure, is not to give offence: "you will recollect that from the great distance of the seat of Government from the seat of war; in the south, great delays and incalculable injury to the country must have been the consequence of waiting orders from Government, in every instance where militia drafts became necessary; the Secretary of War therefore wrote on the 11th of January, 1814, to the Governor of Tennessee, authorising him to "supply by militia drafts, or by volunteers, any deficiency which may arise in the militia divisions under the command of Major General Jackson, and *without referring on this head to this Department*. It may be well that your Excellency should consult General Pinckney on such occasions, as he can best judge of the whole number necessary to the attainment of the public objects." Here was a discretionary power given to the Governor of Tennessee, to call out such portion of the Tennessee militia, without waiting for further or specific orders from the Department of War, as he might deem necessary to supply any deficiency of troops under General Jackson's command. This discretion vested in the Governor was unlimited, with the exception of the suggestion, that it might be well for him to consult General Pinckney, who was at that time, the commander in chief of the army in that section of the Union."

PRIVATE. If you mean by the word *unlimited* to convey the idea that a discretionary power as to the period of service for which the militia might be called out, was transferred by the order to Governor Blount, I do not assent to the proposition.

COL. POLK. I do contend that under the fair contruction of this order, Governor Blount was cloathed with a latitude of discretion as to the term of service.

PRIVATE. It then appears, that you and the Military Committee of the House of Representatives, composed of the friends of General Jackson, rely on this order for the *legality* of these executions. If this construction of this order be not a fair one, you must concede, that there is no other aspect, in which they can be legalised. Let us see what has been the legislation of Congress on the subject of the term of service.

By the Act of 1795, entitled an Act to provide for calling forth the militia to execute the laws of the Union, suppress insurrection and repel invasions, and so forth. It is provided, "that no officer or private of the militia, shall be compelled to serve more than three months after his arrival at the place of rendezvous."

By the Act of 1812, to authorise a detachment from the militia of the United States, it is provided that the officers and privates *detached* under this law, may be compelled to serve six months. This law was to be in force for two years: it expired on the 10th of April, 1814.

On the 18th of April, 1814, a *Supplement* to the first law, passed, by which it is provided, that the militia called into service by the Act of 1795, if, in the opinion of the President, the public interest required it, may be compelled to serve for a term not exceeding six months.

This discretion could only be exercised by the President, and when he did not deem it expedient to exercise it, the men could only be detained for three months; but this contingent exercise of power might be exercised by the President, *after* the men were called out, at any time *before* the three months after the men had rendezvoused *had elapsed*.

I regret, sir, that you have attempted to impose on my intelligence by arguing that, by this order of the 11th January, 1814, the President delegated to Governor Blount a latitude of discretion as to the period of service; which latitude was not then vested in the President, which the President never could have anticipated would have been transferred to him, and which was never transferred to him until three months thereafter by the act of 1814.

That this letter had no relation to the length of service, is satisfactorily established by the letter of the Secretary of War, dated on the 3d day of January, 1814, to Governor Blount, only eight days before the letter of the 11th of January, in which he says, "that the militia may be considered as having been called out under the law of 1795, which limits the service for three months. The President is more disposed to make this decision, as the State law provides that a period of three months shall be deemed a tour of duty; and as the spirit and patriotism of Tennessee leaves no doubt but that a succession of corps competent to the object of the Government, will be regularly provided." Thus, the President, in respect to the feelings and habits of the Tennesseans, as represented and pressed on him by Governor Blount, limited the services of the militia to a three months tour of duty, although the law then authorized him to continue the militia in service for six months. How preposterous, therefore, it is to argue that the President, within eight days after the above letter, intended to confer on Governor Blount the discretionary power to order them out for six months.

The grammatical construction of the order confines the latitude of discretion conferred by the President on Governor Blount, to the number of *men* to be called into service.

According to the practice of the General Government, unless the militia of the State is called into service by a requisition from the War Department, or the War Department subsequently approbates the employment of the militia ordered out by a governor, the General Government is not bound to pay the militia thus called into service. You have justly said "that the great distance of the theatre of the war from Washington, rendered it alike inconvenient and dangerous to the public service to wait orders in every instance from Washington, when militia drafts became necessary." To guard, therefore, against this necessity of applying there for a requisition of *drafts*, ("or, in other words, for men,") it was deemed expedient, in the War Department, to vest the power of deciding on the number of *men* to be ordered out, in Governor Blount.

Let us now examine the order of the 11th January, 1814.

The Secretary of War to Governor Blount.

WAR DEPARTMENT, January 11, 1814.

SIR: You are authorized to supply, by militia drafts, or by volunteers, any deficiency which may arise in the militia division under the command of Major General Jackson, and *without referring on this head to this Department*. It may be well that your Excellency should consult General Pinckney on such occasion, as he can best judge of the whole number necessary to the attainment of the public objects. I have the honor, &c.

J. ARMSTRONG.

His Excellency the GOVERNOR OF TENNESSEE.

Thus, the anticipated deficiency of *men* in the militia *division* under General Jackson, may be supplied by militia *drafts* or volunteers, without referring, on this *head*, to this Department; that is, you need not consult this Department on the number of *men* which the service may require; but you may supply such want of *men* by drafting the *numbers* requisite from the militia or receive volunteers; but, on "such occasions," that is, upon such deficiency of *men*, you will consult General Pinckney, who can best judge of the whole *number* of *men* necessary for the attainment of the public *objects*; that is, as Major General Pinckney knows how many men will be necessary, you had better consult him before you determine on the number of men you order out. Again, on January 31, 1814, he writes:

The Secretary of War to Governor Blount.

WAR DEPARTMENT, January 31, 1814.

I have had the honor to receive your Excellency's letter of the 5th inst.

My letter of the 11th will have anticipated your inquiries relative to *further detachments* of militia.

The attention of the Paymaster of the Army will be particularly directed to the payment of the troops who have been in service from Tennessee.

J. ARMSTRONG.

His Excellency the GOVERNOR OF TENNESSEE.

Thus, sir, you see that in neither of these orders is there a suggestion in relation to the duration of the *service*—the quantity of the force, not its quality; the number of the men, not the character of the service, are the only questions upon which they profess to speak.

This restrictive construction of these orders, as to *men*, is sustained by Governor Blount in his own official communications.

On the 20th of May, 1814, Governor Blount made his requisition on Gen. Jackson for 1000 infantry. It was under this requisition that those ill fated militia-men were called into service: "You will, without delay, order out one thousand militia infantry, of the 2d division, for the term of SIX months, unless sooner discharged by order of the President of the United States: or you may accept a tender of service of the above number of volunteer infantry, from the 2d division, for the aforesaid term, for the purpose of garrisoning the said posts, at your option; which latitude, in relation to calls for *men* to act against the Creeks, in furtherance of the views of Government in that behalf, is given to me, by instructions from the War Department."

This order prescribes the period of service and the number of men. As to the length of service, he professes to have no latitude, but says, as to *men*, a latitude was given to him by the War Department.

COL. POLK. But Gov. Blount, in a letter to the War Department, on the 19th of October, 1814, says, in reference to this very detachment, "there are in service, from this State, 1000 men: they were ordered out for six months, and have nearly three months yet to serve."

PRIVATE. If this letter is referred to as shewing that the War Department, on the 19th of October, 1814, recognized the requisition made by Gov. Blount for six months, you shall have the whole advantage of the argument. I understand it to be this: that, on the 24th of May, they were ordered into service to rendezvous on the 20th of June, 1814, and that although they were, under the then existing law, entitled to their discharge on the 20th of September, unless the President should be of opinion that the public service required them to remain six months, and had announced such an opinion; yet that the President, by not ordering them to be disbanded on the receipt of Governor Blount's letter, virtually admitted that, in his opinion, the public service required that they should be continued in service six months.

I shall not undertake to say to what degree this implied recognition by the President of the requisition for six months, legalized the detention of the men *then* in service for six months.

But, sir, recollect that this implied recognition for which you contend, was one month after the 20th of September, *when* their period of service for three months, under the law, had expired, unless the President, before then, had announced that, in his opinion, the public interest required that they should remain in service for six months, and, therefore, cannot by *relation* legalize the execution of those men who returned home before this implied recognition.

Humanity and the constitution of the United States alike deny the right in the supreme power to declare an act *illegal* and criminal which, when done, was both legal and innocent.

I hope that I have shown you, that, from an attentive examination of the laws in relation to the militia when the order of 11th January, 1814, was issued; from the evils resulting from the necessity of referring to the War Department for supplies of *men*, and which it was intended should be corrected by that order; from its grammatical arrangement, and from the contemporaneous construction of it by Governor Blount, that the latitude of discretion was exclusively restrained to the number of *MEN* whom it might be deemed prudent to call into the field at the expense of the National Government.

COL. POLK. "It was, sir, however, no part of Gen. Jackson's *right* or *duty* to question the authority of Governor Blount's order commanding the men out for six months. He was then a General in the militia of Tennessee, and, as such, was bound to *obey* the orders of his *superior* officer."

PRIVATE. In the ardor of controversy, and in your anxiety to vindicate General Jackson from the charge of executing these men contrary to law, you have pronounced on your friend a severe reproof. I agree with you that it is neither the *right* nor the *duty* of an inferior officer to question the *wise* commands of his superior. In this we differ from General Jackson, and I fear that he will not thank you for asserting that it was his *duty* to obey *any* order, issuing either from the commander-in-chief or imposed by the constitution. "He acknowledges no liege lord, in his bosom reigns another monarch, self-will; sole judge of itself." Did he not deem it his *right* and duty to disobey the order of the Secretary of War, dated on the 5th of January, 1813, ordering him to disband his troops, and to deliver over the public stores to General Wilkinson? Did he not communicate this disobedience of orders in a most rude and insulting letter to the Secretary of War? Has not his biographer eulogized him for this insubordination? Did he not issue a general order to his military divisions, forbidding the officers in it to obey any order from the President, unless such order went through him? and did he not offer to prove, by battle with General Scott, that it was both his "*right* and *duty*" to cause the orders of the President to be thus disobeyed? Yet, when the lives of six human beings, his own countrymen, were in his hands, it was not his *right*, his *duty* to examine if, under the law of the land, the order by which these men were drafted into the service was legal!

But even if it be conceded that Gen. Jackson was bound to obey the order to call the men into service for six months, and that Gov. Blount supposed that he was authorized, on the 20th of May, to order them into service for six months, yet this duty upon the part of Gen. Jackson, and this belief of Governor Blount, cannot, do not, establish the legality of their execution: that depends on the *written law*, not on the *sense* of duty—not on the *belief* of any man.

COL. POLK. "These men were mustered into service for six months; they knew they were so mustered; they were paid for six months' service; the muster rolls *show* on their face that they were mustered for six months. With these incontrovertible facts staring you in the face, you, although a vic-

lent partizan cannot longer contend that the "six militia-men" were bound to serve only three months."

PRIVATE. The question of legality is not touched by these *incontrovertible* facts; they only prove that they were mustered for six months, and that they were paid for six months; yet they do not prove that because they were so mustered and paid, that, therefore, they were bound to serve *six months*. The very subject of discussion is the order of Gov. Blount, and the acts and doings were, under that order, sanctioned by the existing law of Congress. It does not become your professional reputation to contend that these orders and doings were legal, because they were issued, and acts done under them, instead of referring to the *law* which made these acts and doings *legal*.—

COL. POLK. "There is a fact connected with this subject which I shall here take the liberty to state the order of Governor Blount of the 20th May, 1814, General Jackson's requisition of the 24th of May, are not among the documents sent to the House under the call made by Mr. Sloan. Gov. Blount swears that he forwarded his order. I have no doubt General Jackson forwarded his. Are they in a recess in the Department? I state the fact that they are not among the documents communicated to Congress, and you will judge."

PRIVATE. I pray you pardon me for saying that the insinuation is unbecoming you. You cannot believe in this uncharitable implication of the Secretary of War; you do not believe that he has suppressed these documents. It is passing strange that, at the very moment you so pathetically deplore the bitterness of invective against Gen. Jackson, that you should scatter most liberally the seeds of distrust against the moral integrity of the Secretary, by insinuations calculated to induce a belief that, notwithstanding his oath of office, he suppressed documents essential to the vindication of the fame of Gen. Jackson. Do you not know, from your own Congressional experience, that many, very many original communications, are not to be found in the different bureaus to which they were directed? Do you not know that this is emphatically the case in relation to the War Department, about the period of 1813 and 1814? Do you not know that your own delegation applied years since to that Department for copies of documents required in the compilation of the biography of General Jackson, which could not be found? Is it charitable, is it magnanimous, for you, sir, with this knowledge, to attempt to poison the public judgment against a prominent officer, and a citizen distinguished in private life for his many virtues? From this time I pray you, Col. Polk, cease to invoke the public hatred against those who seek, without just cause, the destruction of private character and of public confidence in public men.

If I could consent to indulge in uncharitable surmises, might I not say that the very fact stated by Governor Blount, that he furnished this very order from his own private bureau, is suspicious, and calculated to induce a belief, that inasmuch as it could not be found among the archives belonging to the Government of the State of Tennessee, (where it ought to have been, if it ever had issued,) that, therefore, it never was issued by him. I regret too much the want of confidence shown by you in public men to follow your example. This fact is alluded to point out to you the danger of implicating the integrity of public men on such slender grounds.

COL. POLK. "That subordination must exist, and that *examples* must occasionally be made to insure safety in our army, all past experience has proved." One I will notice that is in point. It occurred under that great and good man, General Washington. In a letter from General Washington to Robert Morris, dated "*Head Quarters, May 17th, 1782*," he gives an account of it in these words: "Minds soured by distresses are easily rankled; as a specimen of it, the privates of the Connecticut line were, the other day, upon the eve of a general mutiny; the vigilance of the officers discovered it a few

hours before they were to parade; *all the ringleaders have been tried and executed.*

PRIVATE. It is too true; a part of the Connecticut line did mutiny. They did not claim to be discharged upon the ground that their period of service had expired; they were *enlisted soldiers, received their bounty, and, in violation of their faith and contract, attempted to march off, with arms in their hands.* A gallant officer opposed himself to their march; the sergeant at the head of the mutineers, equally as decided as the officer, refused to surrender; they advanced, transfixing each other with the bayonet and the sword, and fell lifeless.

Oh! Col. Polk, do not attempt to impose on us by referring to the necessity for, and the punishment of, this outrageous mutiny of regulars as being a precedent set by Washington, to vindicate the execution of a militia-man ignorant of the law, seeking for *information* when his tour of duty would expire, believing that it had expired, delivering up his musket, taking a receipt from his captain for it, going four or five hundred miles home, there receiving information that possibly his tour of duty had not expired, and returning to camp to resume his military duties. Tell us not, I pray you, that the punishment of the Connecticut mutineers is a case in point. While arguing away the liberties of the militia when in service, I trust that in time of peace, more especially upon the eve of an important election, that you will not treat them as fools, as idiots, as every thing but rational men. When in service, we are to be treated as slaves and bondsmen; in peace, as idiots or dolts.

PRIVATE. I upbraid not the law with severity in attaching the crime of death to certain offences; cases have arisen, and will arise, where the punishment may be properly inflicted. The question between Gen. Jackson and the rank and file of the American people, is, were the offences committed by the "*six militia-men*" of the character requiring such a bloody punishment?

They deserted not to the *enemy*; they deserted not from *disloyalty* to their country; they deserted not in *battle* from *cowardice*; they deserted, not to *defraud* the Government of the *bounty* advanced to them; they were *not volunteers*; they were *not enlisted* soldiers; they were *drafted* militia, not bound to serve *one hour longer* than the period *appointed by law*; and having a right, as every free man in this country has, of thinking and speaking on his legal rights; and believing conscientiously from information derived from others, that their term of service would expire on the 20th of September: they, on the 19th, *said* they would go home, and on the 20th *did* go home, and fearing from information, after they had reached home, that they might have erred, they returned to the camp with "*contrite hearts*," offering and willing to do duty; yet *those men were shot.* You talk of military executions during the revolution as establishing precedents, justifying these executions. I challenge you, Sir, with all the researches of your friends throughout the Union, to find one solitary instance where *men were executed* for an assertion of what they deemed their *legal rights.* No such decree written, like *Draco's laws*, in blood disgraces the military annals of that glorious period.

COL. POLK. "I have written a letter to Gen. Gaines, to learn from him, if during the late war he knew of any executions by sentence of court martial, either of regulars or militia, and he says he knew that the regulars were shot for *desertion*, he knows of no *militia man that was shot.*"

PRIVATE. Why, Sir, we wanted not the authority of General Gaines, for such a fact, it is notorious, that many were shot for desertion, who had received the bounty, in some instances, of one hundred dollars, and who, to defraud the government, did *desert.* How unlike, in moral turpitude, are these cases of desertion, from those of the "*six militia men*," dragged from their homes without bounty, informed by their officers and other that their period of service had expired, and conscientiously believing that it had expired, they *said* they

would go home, did go home, and who, lest they might have erred returned willing to do duty. The first is a premeditated fraud, the latter an error of opinion upon a question of great legal difficulty, even admitting that I have not convinced you that they could not be detained, under the law, for a longer period than three months. You say that General Gaines says that he knows of no militia man deserting. History, however, tells that many did desert, were tried and convicted and not one sentenced to death. Gen. Smyth, in page 283, 3 vol. of Niles' Register, states, that six hundred of Gen. Tannehill's brigade *deserted* in twenty-four hours. You know that the militia, at the battle of Queenstown, believing that that they could not be compelled to march beyond the limits of the U. States, *refused* to cross into Canada, and that the victory was really won, but lost for the want of a small reinforcement of these men thus refusing to cross. Yet, Sir, notwithstanding the universal burst of indignation that attended their refusal to cross into Canada, do we hear that these men, the *authors of the loss* of such a *victory* were tried, convicted and *shot, for this error of opinion*. No, Sir, it is under the military command of your merciless chief-tain, that error of opinion is treated with the same inexorable severity as deliberate, willful and premeditated *desertion to the enemy*, and such is the deplorable influence of party spirit over the intelligence and patriotism of those entrusted with the protection of the people, that these unprecedented and sanguinary executions are vindicated.

COL. POLK. The corps to which these militia men belonged was stationed at Fort Jackson. Between the 10th and 30th of September, before the period of three months had elapsed, an alarming mutiny took place. Harris, who seems to have been the principal, several days before the mutiny, broke out, carried a subscription about, taking down the names of those who were willing to go home. In defiance of their officers commanding the post, they, on the 19th of Sept., 1813, violently and tumultuously assembled together, to the number of near two hundred, broke open the public stores, took out provisions, demolished the bake house, shot down beeves, and in the face of authority, left the camp on the next morning "at the reveille beat;" yelling and firing scattering guns as they departed, proclaiming to all who would, to follow them.

PRIVATE. The character of these executions cannot depend on any other evidence than that upon which they were convicted, more especially such as may now be got up, if you call other testimony to their justification, you yield the point, for, by so doing, you admit that the testimony upon which they were convicted and executed does not justify their conviction or execution.

Harris whom you have denounced as the ringleader, whose memory General Jackson has disgraced, by calling him (being a baptist preacher) a "wolf in sheep's clothing," was tried for mutiny and connivance at mutiny. As you and the Nashville Committee have selected the case of Harris upon which to rest the vindication of Gen. Jackson, it is to be presumed that you and they think that the facts stated in that trial afford as strong a vindication of Gen. Jackson, as the facts contained in any of the trials of these slaughtered men could possibly do: I will now read to you the trial of HARRIS.

CHARGE 1st.—MUTINY.—SPECIFICATION. In this: between the 10th and 28th September, 1814, he went about through the camps, to get assigners to go home on the 20th September, 1814, and stated that he would soon have a larger company than Captain Kilpatrick; and, on the morning of the 19th September, he received his proportionable part of the beef and flour that was forcibly taken, cooked it, and on the morning of the 20th September, 1814, at the end of the reveille-beat, marched off, yelling and firing his gun; and after arriving in the neighbourhood of Fort Strother, he stated that he would retake those that had been taken by Capt. Blackmore.

CHARGE 2d.—CONNIVING AT MUTINY.—SPECIFICATION. In this: not reporting those who were of the mutinous party, as required by the Rules and Articles of War. To which charge and specifications the prisoner plead Not Guilty.

Lieutenant Noah Bennett, a witness in behalf of the prosecution, being sworn, states: That he saw the prisoner, on the 19th September, 1814, with a paper containing a good many names, and the prisoner informed him he only set down such men's names as directed him to do so, that those who were present said it was a list of men's names to draw provisions to go home on the 20th; that the prisoner was one of the mutinous party who marched off on the morning of the 20th, that he belonged to the same company, and believes the prisoner never reported any of the mutinous party, as required by the Rules and Articles of War; that the prisoner was under his immediate command on the 19th September, and that he behaved himself, as usual, *well*, until the evening, when he saw him with the paper described heretofore.

John H. Hogan, a witness in behalf of the prosecution, being sworn, states: That he saw the prisoner with a paper, setting down such men's names as intended drawing provision for the purpose of going home, and on the morning of the 20th September, he saw the prisoner march off with the mutinous party.

John Husbands, a private of Captain Kilpatrick's company, a witness in behalf of the defendant, being sworn, states: That he saw the prisoner some time previous to the 20th September, with a paper, setting down such men's names as intended going home; that the prisoner did not appear to be using any persuasion, and stated it was right some should remain at the fort; that he would soon have a larger party than Captain Kilpatrick; and believes that the prisoner did march off with the mutinous party, on the morning of the 20th.

John Johnson, a private in Captain McKay's company, a witness in behalf of the prosecution, being sworn, states: That, while at Fort Jackson, in the month of August, he heard the prisoner say that there was no law to compel the men to stay in service longer than three months; that he was a man of spirit, and would not stay longer; that a considerable number of the men would go then, and one who would refuse, he could see him bayoneted about six inches: that they would go up to the *big, or great man*, and shiver their muskets over his head; but not strike so hard as to kill him.

The Court adjourned until to-morrow, 9 o'clock.

The Court met pursuant to adjournment: Present, the President and members; and proceeded to the further examination of the witnesses.

Edward Stephens, a serjeant in Captain Kilpatrick's company, a witness in behalf of the defendant, being sworn, states: That he saw the prisoner with a paper, setting down such men's names as were going home, and said that he would take down none but such as directed him to do so; and the prisoner marched off with the mutinous party on the 20th Sept.

James Alexander, (Serjeant Major,) a witness in behalf of the defendant, being sworn, states: That on the 19th September, he saw the prisoner, when the provisions were issued; believes he received his proportionable part; and, on the morning of the 20th, marched off with the mutinous party; that the prisoner told him he did not suppose the list which he had of the men's names, was improper, as it was to be handed to the Colonel, that the prisoner gave up his gun to Captain Kilpatrick, and thinks he demanded and got a receipt, which he had given for his gun, or the Captain wrote one for that purpose.

Ensign Daniel Kelly, a witness in behalf of the defendant, being sworn, states: That the prisoner belonged to the same company, and was frequently near him, during August, and the beginning of Sept.; that he generally behaved himself well, and was obedient to his orders.

James Smith, a private of Lieutenant Mitchell's detachment, a witness in behalf of the defendant, being sworn, states: That the prisoner advised him not to go home with the mutinous party; and believes went himself on the 20th Sept.

James Nelson, a private of Captain Mebane's company, a witness in behalf of the defendant, being sworn, states: That he heard General Washington of Tennessee, say to the members of the Court Martial, that he did not know whether the men were ordered out for a tour of three or six months; that he had wrote to the Governor, but had received no answer to his letter on that subject.

The prisoner states in his defence, that he was totally unacquainted with the nature of militia service; that *had frequently heard his officers say* they knew of no law compelling militia to remain in service longer then three months; and, from the opinion of other men of respectability and information, *conceived his term of service had expired; returned his gun to his Captain*, under that impression, took up *the receipt he had given for it*, and departed from Fort Jackson, conscious of having discharged his duty.

The Court, after mature consideration on the evidence adduced, find the prisoner guilty as charged, with the exception of yelling and firing his gun, and saying he would retake those who had been taken by Capt. Blackmore, and sentence him to receive the punishment of death by shooting.

In addition to the facts appearing on the face of the record, it does appear from the whole correspondence between Governor Blount and the Secretary of War, that the general impression throughout the State of Tennessee, was, that the regular tour of militia duty was three months, and that General Jackson solicited Governor Blount to extend the time for six months, who had pertinaciously resisted his importunities to extend the term until he yielded to his solicitations and made the requisition of May, 1814.

Governor Blount, in his letter of the 10th of December, 1813, to the Secretary of war, writes:

"The second, I understand, are of opinion that their term of service will expire at the end of three months from their entrance into service; that time being considered by the militia law of this State, passed prior to the act of Congress under which the detachment was made, as a tour of duty."

In his letter of the 24th of December, 1813, he writes:

"General Jackson also informs me, that the militia and volunteers who were ordered out under his and General Cocke's command, upon the present campaign, "are impressed with a belief that they should not be required or expected to serve longer than three months" from their entrance into service, many of whom, having served that long, having gone home, he fears that his force will be in a few days reduced to a very small number, with whom, however, he proposes remaining at Fort Strother, or Coosa, until reinforced by drafted men from this State; which draft there is no instructions from proper authority to cause to be made."

On the 22d of December he writes to Gen. Jackson.

"The unfortunate construction given by the troops, so generally respecting their term of service, at this very interesting crisis in public affairs, in this section of the Union, is to be lamented, but since it is the most generally, and likely to become almost the universal construction in the camps; and since there is no authority vested here, that can be interposed, to give a coun-

ter current to the public opinion, with the prospect of effecting any permanent good to the service, or to the cause you are engaged in; and as it is likely that my letter of the 10th instant will produce new orders for a term of service yet to commence, when under all circumstances, would be most judicious in Government to give, the better to effect the objects of the campaign, and to oppose the British; and that the President will be satisfied to consider that the three months' tour performed by your and by General Cocke's detachments, with so much good to the service, and with so much credit to yourselves, may terminate the present campaign, I can think of no better plan to pursue, so as to keep up the spirits of all; for when once militia, or any other troops take into their heads that they have served their tour of duty, it is next to impossible to convince them that to serve longer would be either just or laudable, and to attempt to keep up a force by voluntary enrolment without the authority of Government, would, as I fear, be a vain attempt, notwithstanding it would be highly laudable at this time if it were practicable, patching up an army that way, would effect no permanent good."

The Secretary of War writes to Governor Blount on January 3, 1814,

"The militia may be considered as having been called out under the law of 1795, which limits the service to three months. The President is the more disposed to make this decision, as the State laws provides that a period of three months shall be deemed a tour of duty, and as the spirit and patriotism of Tennessee leaves no doubt but that a succession of corps, competent to the objects of Government, will be regularly provided."

Governor Blount again writes to the Secretary of War, January 5, 1814,

"The troops heretofore ordered out from this state on that expedition having performed a three months' tour, and thereby having, in their opinion, done their duty, (and there being no instructions to the contrary,) having mostly returned to their homes, is a reason why my order was given, and from a sense of duty arising from my belief of the actual necessity of keeping an imposing force in this quarter for the safety of this frontier, and to meet the just expectations of Government in relation to an effective force being in the field to effect the objects of the campaign ordered against the Creeks. The tour mentioned is more congenial to the feelings and expectations of militia; hence, the better to promote the good of the service, that term was mentioned, together with the hope that, in time, the campaign would be over. The idea of a longer term to militia, who I believe are all alive to a sense of duty, and anxious for a vigorous and effectual prosecution of the campaign to a final accomplishment of the objects of Government, is disgusting; and, if required of them to perform a longer tour, their disappointment might lead to greater evils, which it is very desirable to avoid."

He writes on January 3, 1814, to General Cocke,

"The tour of the militia called out from the 2d division will be for three months' actual service, if, in the opinion of the President, public good should require such term of service"

Governor Blount issued his orders to the eldest Brigadier General of the 2d division of the Tennessee militia, dated 3d January, 1814,

"SIR: You will, without delay, cause two thousand five hundred of the militia of the 2d division, officers included, next for duty, to be detached, armed, and equipped, as the act of Congress respecting detached militia, passed the 10th day of April, 1812, requires, "for a tour of three month's actual service of the United States," against the hostile Creek Indians, to com-

mence from the time of their arrival at the place of rendezvous, in the opinion of the President of the United States, public good should require such a length of service."

Eaton, in his life of General Jackson, page 106, says, that General Jackson writes to Governor Blount: "send me a force engaged for six months and I will answer for the result; but withhold it, and all is lost; the reputation of the State, and yours and mine along with it. This letter had considerable effect with Governor Blount. On receiving it he immediately ordered from the 2nd division, two thousand five hundred of the militia for a tour of ~~three~~ months (this was in 1813, when the law was in force authorising a tour of duty for six months, but although the letter had "considerable effect" on the Governor, he would not attempt to interfere with the settled views and wishes of the militia).

But independent of these uncontroverted facts, confirming the general belief throughout the State of Tennessee that the tour of duty for which the militia could be called into the field was for three months only, there is positive evidence that a portion of the officers informed the men that there was no law by which they could be detained longer than *three months*; and that others knew not under what law they were called out; and that others stated that they were called out under the law of 1812, (which had expired before they were called out,) as the following extracts will prove:

Extract from the trial of Captain Strother.

Francis Campory, a private of Capt. Strother's company, a witness in behalf of the prosecution, being sworn, states: That, *in passing by the Captain's tent*, he heard some of the men ask Capt. Strother what would be the consequence were they to go home; to which he replied, that he had been looking, and could find no law compelling them to stay longer than three months, and that he did not know whether they would be hurt or not.

Col. P. Pipkin, a witness in behalf of the defendant, being sworn, states: That Capt. Strother asked him, perhaps twenty or thirty days previous to the men's going off from Fort Jackson, to show him the law which compelled men to stay in service longer than three months; that he replied, it was not in his possession; upon which the Captain stated, that it was his duty to know it.

Major John C. Hicks, a witness in behalf the defendant, being sworn, states: That, between the 1st and 10th of August, while at Fort Jackson, the accused called at the Colonel's tent, and said, that he would be glad to see any law which would compel men to stay in service longer than three months; when he got the Rules and Articles of War, and read them himself, and after he had borrowed and returned them, about the 16th, one of his sergeants called to borrow it, and read the laws of April 10th, 1812, on the subject of militia term of service: immediately afterwards there was material alteration in the sergeant's behaviour; the sergeant engaged in conversation with some of the men on the same subject; and that he was compelled to order the sergeant to desist using any such mutinous language.

I ask you now to answer me upon the sincerity of a man of honor, had not Harris good reason to believe, from the generally received impression of the State as to the usual tour of military duty; from the opinion of his officers and others; from the indisposition of the Colonel of the regiment to shew the law by which they were to be detained for six months; from the officers shewing the law of 1812, which had expired, as the authority for their detention that there was no law compelling them to serve longer than three months; and for their forming, expressing, and acting on this opinion, his life was taken after four days' notice of his sentence, his wife made a widow, and nine

children fatherless. The sanguinary character of this execution is increased if possible by the fact, that the men and officers sought information from the Colonel as to the law by which their actions were to be regulated, and he *withheld it.* The soldier, ignorant of his rights, seeks information from his commanding officer; he refuses to instruct him; the soldier acts without this information, asserts his rights, from the best information that he could procure, and for thus doing, is put to an ignominious death!! Well can the militia-man ever consent to reward with his vote for the Presidency the executioner of such *doctrines.*

COL. POLK. I must repeat, subordination, sir, must exist in every army.

PRIVATE. I agree with you in the abstract, but I presume you mean to give point to its application and design, to argue that a militia-man must *not* undertake to decide when his period of service does expire; *that must be left to his commanding officer;* and if he undertakes to talk of his *rights* by saying, on the 19th, that his term of service will be out upon the 20th, he is guilty of *mutiny*, for which he must suffer death.

I cannot but say, sir, if I have correctly understood you, that these *passive* doctrines become military tyrants: such slavish, debasing doctrines, surrounded by the terrors of death, are calculated to place the militia as tools in the hands of any military chieftain who should aim to grasp at the sovereign power over the destinies of this people. The *spirit* of liberty encourages an independent exercise of opinion on *constitutional* rights as essential to the preservation of *our liberties, more especially in relation to the militia when in the field.* A lust for authority prompts the *officers* to render them *vile machines in their hands,* while it is the duty of all to sustain a rigid discipline and subordination in the camp, it is equally our duty to encourage and *sustain a becoming exercise of the constitutional right in the citizen to say when he is* entitled to be removed from the ranks of his commander as the only safe means of preventing the citizen, when once in the field, becoming the *forced* retainer of a daring, ambitious commander, who, like Caesar, Cromwell, and Bonaparte, may turn the militia, when once embodied for the defence of the nation against foreign enemies, against the liberties of his own country. I am unwilling, by elevating General Jackson to the Presidency, to yield myself up to his Generals; and if I should *dare* to say when my period of service expires, subject myself to be shot for *mutiny.*

Gen. Jackson and his advocates do not admit that a militia-man has any right. He would place him in the ranks as a fit tool for military despotism. These doctrines may suit OFFICERS, they do not suit PRIVATES.

COL. POLK. The troops who remained at their post were subjected to much exposure and fatigue, in consequence of the reduction of their numbers and left an important post in the enemy's country almost defenceless.

PRIVATE. This may be all true, yet they were not tried on any such specifications. It appears that the Secretary at War deemed it a wasteful expenditure of the public money to keep them in the field, and actually ordered all the militia to be disbanded, as appears by the following letter, dated the 24th of May, 1814.

"If the hostile part of the Creeks is really broken down; if they are prostrated before us, and even begging from us the means of subsistence; and if the friendly part of the nation has, in itself, any force and a friendly disposition to employ it, (and of all these facts there is no doubt,) why retain in service any portion of the militia? The 5d and 39th of the line (with the friendly Creeks) will be amply sufficient to cover the negotiation, and that terminated, (as you think it may be,) even these may be carried promptly to New Orleans, where their services may be wanted."

Extract of a letter from the Secretary of War to General Jackson, dated June 25, 1814.

"These remarks are meant to apply to your argument for keeping up the large militia force now in service in the Creek country; and to furnish occasion to repeat *wishes of the President, that this force be diminished, and the whole of it discharged as early as may consist with the interest of the public.* There are now 3000 men of this description, employed to hold the country against the fugitives who have escaped the destruction you have caused among them."

Here we have the direct opinion of the President that the services of the militia were no longer necessary.

If General Jackson had set an example of subordination, in obeying these orders, these "six militia men" would have been spared to their families; national honor would not have to be invoked to frown on the author of their *butchery*, who has been frequently guilty of the most high handed and insulting opposition to the orders of his superiors, and escaped degradation from the influence of the renown acquired by him, from his fortunate victories, while he has punished with an unyielding severity the *obscure unprotected* privates for a departure from his orders, arising either from the indiscretion of youth or the mistaken notions of LEGAL RIGHT. He who so frequently had cause to pray for mercy, from his superiors, who has been dealt with in MERCY, never PRACTISED MERCY to the FRIENDLESS and UNPROTECTED PRIVATE; yet, he asks us to elevate him to the Presidency, and thus APPROBATE HIS CRUELTY to us.

COL. POLK. "As well might you censure the judge for pronouncing the sentence of the law on the culprit, fairly condemned by a jury of his country: as well might you censure the Executive of the Union, or of any of the States, for withholding from the condemned criminal a pardon, when he had not been recommended to mercy, and when no circumstance in his case could palliate his crime, as censure Jackson in this instance for withholding from these six mutineers a remission of their punishment.

PRIVATE. There is as little of force as of novelty in this defence. The jury find the facts, the judge awards the sentence of the law; and if, in weighing the guilt of the convicted, he pronounces a punishment outraging humanity; because not graduated according to the character of the crime, the moral sense of the community is shocked, because he has judicial powers, and it is his duty to know the evidence shewing the corruption of the heart which induced the perpetration of the crime, the analogy between the commander and the judge is complete; for when the commander carries into execution an inhuman and revolting judgment inflicted by a court, as he has all the testimony before him upon which he is to act, (and if he doubts, it is his duty to refer it to the President,) he sanctions and adopts the *judgment* of the court martial, as his own.

But if the commander was, by the existing law, bound to execute the sentence of a court-martial, and had no discretion invested in him to inquire into the facts upon which the conviction was grounded and the sentence awarded, then the analogy between him and the Executive would be complete; for like the President, he then would have no judicial power to review the facts upon which the judgment was pronounced; and he, as is the President, would then, as a ministerial officer, be only charged with ordering the execution of the court. By article 65 of the articles of war, it is provided that no sentence of a court-martial shall be carried into execution until after the whole proceedings shall have been laid before the officer ordering the same.

By article 89, every officer authorized to order a general court-martial, shall have power to pardon or mitigate any punishment by such court-martial, except the sentence of death or of cashiering an officer, which, in cases where he has authority to carry them into execution, he may suspend, until the pleasure of the President of the United States can be known.

Thus, then, Gen. Jackson had the power of suspending these most inhuman judgments, and might have submitted them to the President of the United States. He did not choose to do so; intoxicated with the military adulation offered up to him for the triumph on the 8th January, on the very day before he approached the threshold of the House of God, to appear with a grateful people in offering up prayers for the signal interposition of the God of battles in favor of our arms, he signed the bloody warrant which sent these unhappy men, who sought for and were denied information by his own officers as to their duty, unanointed, unanealed, with all their imperfections on their heads, into the presence of their God and Saviour; yet this man, vauntingly triumphing in this deed, and his friends tell us, because he conquered at Orleans, we must forget the impetuosity of his temper. He who never practised mercy towards the private; he whose heart was steeled against the supplications of mercy, shall never receive at my hands political pardon. Oh, God! how differently did Washington shew his gratitude to heaven for the triumph of our arms at York. A general order of his opened the doors of the military prisons, and the wretched inmates walked abroad, free and absolved from temporal punishment; but Jackson's victory, like the idol of Juggernaut was worshipped with offerings of the blood of human victims. The battle was won on the 8th; on the 22d, the wretched militiamen were ordered for execution; on the 28th, the following persons were ordered to be shot.

[Extract from the General Order, dated "Adjutant General's Office, New-Orleans, January 28th, 1815, Head-Quarters, 7th Military District," on the proceedings of the "General Court Martial held at Nashville, on the 19th of October, 1814, and continued by adjournment till the 25th of Nov. 1814."]

(EXTRACT.)

"Was also tried the following named men, soldiers of the army of the United States, severally charged with "desertion," viz: Richard Wall, of 5d Rifle Regiment; Jacob Perregrin, of said regiment; both of Captain Willey Martin's company; John Jones, of the 24th Regiment of Infantry; William Myers, of Captain Humphrey's company of Artillery; Jacob King, of Captain Reed's company, said corps; Benjamin Harris, of the 44th Infantry; John Young, of the 39th Infantry; Nathaniel Chester, of the corps of Artillery; Drury Puckett, of the 24th Infantry; Wyatt Grantt, of the 39th Infantry; Joseph Muckelroy, of the 24th Infantry; and James Mc.Bride, 2d Rifle Regiment; to which charge they, severally, pleaded "Not Guilty," except Jacob King, who pleaded "Guilty." The Court, after the examination of testimony on each of the cases and deliberation had thereon, pronounce on each and every one of them, the sentence of "Death by shooting." The Major General approves the sentence passed on the above named soldiers of the army of the United States, and orders the same to be carried into complete effect in four days after the promulgation of this order at the place or post where they may be, under the direction of the senior officer present."

We are told that a respectful consideration for the judgment of the court-martial, arrested the *benignant* feelings of General Jackson. Do you not know, that in the case of Ambrister, he was restrained by no such respectful considerations; that he did interfere with the judgment of the court, and set aside the last judgment of corporal punishment, and caused the first sentence of death to be executed!! I will read to you the proof that he did this *interfere* from 15th Niles, page 281.

"The court, on examination of evidence, and on mature deliberation, find the prisoner, Robert C. Ambrister, *guilty*, and sentence him to *death* by being shot. The members requesting a reconsideration of the *verdict* on this sentence, and it being had, they *sentenced* the prisoner to receive *forty stripes* on his back, and be confined with *ball and chain* to hard labor for *five months*. General Jackson *approved* the finding and the first *sentencing* of the court, and disapproves the reconsideration of the sentence of the *honorable* court." And directs that the sentence of death be carried into execution between eight and nine o'clock of the day—aye, on the very morning that the order was issued—quick, bloody work.

When human life was to be destroyed, respectful consideration for the court-martial did not stay his interference with their decrees, nor prevent him executing a *rescinded* judgment; but when his own countrymen implored him to save their lives from the bloody doom of the court, his merciful feelings were paralysed by considerations of courtesy, respect, and deference for the judgment of the court! He has interposed with their judgments to slay, but never to save his *fellow men*. What contempt do his defenders shew for the judgment of the militia, by hoping to satisfy them with such puerile arguments!

COL. POLK. When Gen. Jackson's conduct in the Seminole campaign was arraigned in Congress—when his whole public life was scrutinized, no charge was then made against him for the trial and execution of the six militia-men.

PRIVATE. I deny, sir, that his *whole public* life was scrutinized. His disobedience of the orders of the Secretary of War, his usurpations of the constitutional powers of Congress, by carrying the war into the territory of a neutral power; his ferocity in the execution of the Indian prophets, of Arbuthnot and Ambrister, were alone the subject of legislative inquiry; the Creek war of 1814 was not embraced in the scope of that inquiry.

COL. POLK. His conduct was then ably vindicated by Mr. Adams, then Secretary of State.

PRIVATE. Is it possible that you are so indiscreet as to refer to the magnanimous conduct of Mr. Adams in reference to his vindication of General Jackson—a vindication that sustained Gen. Jackson, and averted the storm of public indignation that threatened to burst over his head, and notwithstanding the fresh recollections of the services rendered by him in the salvation of New Orleans, promised to consign his memory to execration. A storm dispelled by the powerful mind and *pen* of that *able*, eloquent, and patriotic civilian, and in return for which, because the House of Representatives dared to prefer him as President, Gen. Jackson, with the fell spirit of the viper warmed into life by the kind attention of the countryman, has labored to sting them to political death. But, sir, Mr. Adams, in all his correspondence, never alluded to this charge exhibited against General Jackson in relation to the six militia-men.

COL. POLK. It did not occur to Mr. Madison that the six militia-men had been wrongfully tried and executed, or that they did not deserve their fate.

PRIVATE. Recollect the time when the news of these executions must have reached Washington; it must have been when the whole nation was rejoicing at the victory of New Orleans; when it was singing loud hosannas to the victor; when, in the brilliancy of that achievement, a departure from humanity might have been overlooked; and when it might have been considered as inconsistent with the national honor to exhibit facts painting the chieftain as a ferocious General, prodigal of the blood of his own citizens. But, sir, how did General Jackson know that Mr. Madison “was too much of a philosopher; that he could not look upon blood and carnage with indifference,” unless he had mildly expressed his disapprobation of the waste of human life that marked the march of this unfeeling conqueror to victory.

COL. POLK. If there was no other evidence of the utter falsehood of the charge now so industriously circulated by his enemies, for the purpose of exciting public opinion to his prejudice, the fact that it slept and was not heard of for thirteen years after the occurrence took place, is itself conclusive. Why was it that during the Seminole discussion; why was it that during the last Presidential canvass, it was not heard of?

PRIVATE. The obvious answers to these questions are, that these executions took place in a remote section of the Union, at a period of time when public attention was attracted by questions and incidents of a more absorbing interest; the authors of them never gave publicity to them; in the chronicles of the times they are not mentioned; his biography does not allude to them, although it does to the execution of John Woods; the authors of and the actors in these bloody tragedies have sought to bury them in oblivion; and the veil of secrecy with which they were shrouded never was lifted until Judge Bayton, of Tennessee, in Sept. 1834, exposed them, in all their disgusting relation.

to the reprobation of the citizens of the United States. As you appear uninformed how these executions were first intruded on our notice, I will read to you what Mr. Benton writes:

[EXTRACTS FROM JESSE BENTON.]

"There were other executions which occurred under his military despotism, which are suppressed in the book. One of the scenes to which I allude, was the execution of six militia men under circumstances *calculated to excite the utmost horror among a civilized and humane people*. These composed a *part of the drafted militia*, who went out under the impression that they were only to serve *three months*. To satisfy all doubts in this respect, it is said, they procured the opinion of a Court Martial, at home, and the private opinion of some of their officers, among whom, report states, that there was one Brigadier General of the Militia, previous to their marching for the army, *all of whom* concurred in opinion that they were bound for only three months. At the expiration of this term they returned home, were advertised as deserters, and on being advised that they had done wrong, went back five hundred miles, willingly and without being confined and forced back as criminals. Among these men was one preacher of the Gospel, and one youth under 21 years of age, who had fought bravely during two tours previously. At least *three of the six had families*. The soldiers who executed the sentence of the law, certainly aimed to miss the youth who had served the two tours of duty before. Only one struck him near the hip. They were all considered dead, and the soldiers marched off. Some young officers happened, in indulging their curiosity by looking at the slain, to discover the young man open an eye. "Here is one of them that winks an eye; he is not dead yet." "For God's sake, do not shoot me again," said the young soldier, who had been pretending to be dead. The hour for their execution had passed, and Gen. Flournoy dared to spare his life. He died in three or four days. *These men were poor and friendless*. Their distressed wives and helpless children were left to sink under their load of misery, to mourn over their untimely and unnecessary *cruel and inhuman death*. Their *General was all powerful*; hence the tongue of reproach was silenced and the scene of blood is sunk into oblivion, or remembered only to be thought of, but not whispered to the prejudice of the would be President."

I will not say that the pen of Mr. Senator Benton is visible in the address. I pray you have patience a little longer, while to enable you to decide if he contributed in any degree to its production, I will read one more extract.

"General Jackson got Eaton to polish off his 'Life of Jackson.' The veil must now come off. He shall stand as he is before the people. If I colour too high, he has a host of active partizans to defend him, public indignation would sink me; and as I make these statements before his face, he can send his cure at the same time to the world. General Jackson is not to be shook by the weak and malignant effects of private enemies. Before his military fame added to his pride and strength, he would go all lengths to ruin those he hated. He has now arrayed, for the prosecution of his *ambitious scheme*, around him, that all is *formidable in society*. The pistol, the dagger, and the press are at his command. The yoke and the chains are *presented to us*. We rise to support all that is sacred among *freemen*—a sound administration of our national affairs. We belong to the nation, but to no personal faction. We are for Crawford and Gallatin, only because they are wise and honest *politicians*. "In the foregoing delineation of the character of General Jackson, I do not only speak of my own knowledge and the feelings of hundreds, yes, thousands of the most intelligent and brave men of Tennessee; I speak those sentiments which would be seen through the columns of the Tennessee newspapers, were it not that the most efficacious means have been adopted to subsidise some and to intimidate others. Such has been the spirit of domineering tyranny exercised by him and his partizans, that it is apparent martyrdom for any man to act freely and independently on this subject." It is *prodigiously strange* that you, who were once the neighbour and friend of Gen. Jackson, should not have heard of his celebrated pamphlet of Mr. Benton, the brother of the Senator.

This statement was too bloody and inhuman to obtain the credit of the American people: the author of it was unknown. It was deemed to be the production of a mind distempered by political hatred; yet a reference to the official record shews that it was sketched in all its important particulars with a sacred regard to truth, and every other charge made in his address, so far as they have since become topics of public discussion, and proof has been most conclusively *established*.

In an ill-fated hour the Nashville committee, charged with the defence of General Jackson, obtained from his own bureau a copy of the trial of Harris, and insulted the pride and humanity of the American people by publishing it, and a justificatory memoir during the last summer. The public curiosity has since been on the tiptoe, and the pious and religious believe that the hand of God is in this developement, and that it is another manifestation of his kindness in order to arrest that mad military enthusiasm which has destroyed every republic which heretofore existed. I trust that you will now admit that every "intelligent and candid man" must admit that the executions of the 6 militiamen were without authority of *law, unprecedented and sanguinary*.

When we next converse, I will ask you if General Jackson ought to have sanctioned the judgment of a court-martial, and carried it into execution by ordering the men to be shot for going home, when their officers, who told them that there was no law to detain them, escaped such a severe doom, and to reconcile this difference of treatment between officers and men, with the imposing, coaxing, and unfounded assumption that General Jackson is the candidate of the people. He the candidate of the people who gives the people to death, while the *officer* escapes with mere degradation for a like or a greater crime!! Since the days of the Roman republic, every demagogue who aimed at the supreme power, affected love for the people. The bloody Sylla, the artful Cataline, while they butchered their fellow citizens, modestly, *patriotically* vaunted that they were the people's *candidate*.

COL. POLK. The people of Tennessee claim to be as moral and as humane as those of other sections of the Union, and yet *they*, the neighbors and acquaintances of these six unfortunate men, and the neighbors and acquaintances of General Jackson, have never thought of censuring him for the approval of their sentence.

PRIVATE. This may be true: yet, Mr. Jesse Benton denies it. History, however, is not uninstrusive as to the delusions of public sentiment, which leads to the support of men who have been the instruments of unnecessary and profuse destruction of their fellow men. "The town and county of Somerset, though the scenes of Jefferies' (the corrupt and bloody instrument of James) unparalleled butcheries, favored the cause of James."

Personal attachment and State pride may combine, in Tennessee, to cast a mild shade over these executions, but I, uninfluenced by such considerations, cannot but believe that national honor, the cause of humanity, the security of the humble citizen-soldier, cry aloud against the elevation of General Jackson to that distinguished station, which demands from its incumbent, as essential to our happiness, mercy, experience, and an enlightened mind.

The Military Committee have said "that the very fact of the jurors being their own officers, secured a sympathy for them, which conduced to a merciful interpretation of their acts." Never was there a more false deduction from facts. A Court Martial detached (by Colonel Pipkin, their commanding officer, at whose request the men were arrested, who refused to instruct them as to their tour of duty, when asked so to do, the very witness against them) from those very officers whose military pride was offended by these very men (whom they were to try) retiring from their service, and whom they sought to punish for their disobedience of orders, is represented, not only as a fair and impartial, but even a SYMPATHETIC Jury! Surely, sir, your friends, infatuated with the success heretofore attendant on your sophistries and misrepresentations, have assumed a confidence that induces them to hazard a judgment either showing the profoundest ignorance of the principles of human nature, or the vilest contempt for the intelligence of the American people.

COL. POLK. In conclusion I have to say, that General Jackson is the same man now, and equally devoted to his country's honor, that he was when he met and conquered the enemies of this country.

PRIVATE. Is it possible that, even now, when his temper should have been mellowed by time; when his heart should have been changed, under the conviction that each and every hour brings him nearer to the judgment seat, where he is to account for the sins of this life, that he is still unchanged, the same fiery HORSFUR, if not now seeking the destruction of the physical yet the political life of those who stand between him and the throne? God, then, only knows the proscriptions and the woes that he will visit on this happy land, if he shall be called to rule. After this avowal by you, I have no patience to continue our argument. Farewell; may kind heaven, which has heretofore watched over the liberties of this people, save them from the misrule of the unchangeable Andrew Jackson.

PRIVATE (returning). In my facts, I cannot be deceived; in my deductions I may; but, as I am going to publish our conversation, the people will judge between us.

COE. POLK. It is a fair appeal, between us, to them. "Truth is mighty and will prevail."

PRIVATE. The dialogue between Colonel Polk and myself having closed, I will now make an appeal to my fellow soldiers. The happiness and the fate of a people are powerfully influenced by the ruling passion of those who administer the government. The warrior delights in scenes of blood and carnage and is led on imperceptibly, even when influenced by the purest motives, to encourage that state of national affairs which will enable him to gather new military glory, while the mild and pacific civilian seeks to avert the horrors of war and to be immortalized in history, by adding to the peace a happiness of the people and perpetuity of the Government. I am for the last; I am not for him who has so lived, that it does seem that his only delight is in scenes of blood and carnage. Read the annexed letters—they will instruct you as to the melancholy end of some of these men; and the wretchedness brought on many of your fellow citizens by the cruel acts of General Jackson, and deliberately bring your minds to that enquiring and serious state of reflection, which becomes your duty to your Government, when you deliberate on the blessings you now receive from it, and those that it promises to unborn millions? Ask yourselves what are the ills produced by the present national Administration? Does it not move one, in accordance with the wise, merciful, and provident policy of Washington, Adams, Jefferson, Madison, and Monroe? Is it not in the hands of wise, patriotic statesmen; preserving your peace abroad and adopting measures to unfold and foster our domestic resources. To gratify the disappointed ambition of aspiring men, against whom the doors of honor and envy have been constitutionally closed, are you willing and ready to elevate to the Presidency General Jackson, uninstructed as to our foreign and domestic policy, uninformed of our laws, and whose only ambition has been to gather laurels as a military chieftain, in the prosecution of which, humanity, law, and the rights of his fellow citizens have been violated and their blood unnecessarily and profusely shed.

HARRIS'S CASE. *From the Lexington Reporter.*

[Late in the year 1813, my brother James enrolled himself; he was then sixteen years old, and shortly after our house was burnt, and we moved on the Indian land, about eight miles from where we lived, to a salt petre cave, where my father had a furnace to make petre. Not long afterwards, James was drafted in his old company. Father thinking him too young to go without protection, took the place of Samuel Sherrel, and went with him.]

After they had served three months, my father, believing their time was out, and getting no satisfaction from his officers, came home, not in open defiance of the Colonel, but after giving up his gun, and lifting a receipt. Soon after he got home, he learnt that General Jackson had ordered them back by express. He staid at home three or four days, and started back of his own accord. Many of his neighbors tried to prevail on him to keep out of the

way; and every means was offered him to have done so, till the heat of passion had subsided; but he refused, and frequently said that he was conscious that for what they had done they could not be hurt, and that he feared nothing, even before the most prejudiced court martial, except one thing: that was a paper on which he had taken down the names of those that were going home, though he had no fears from *that* if they would give him *justice*.

JOHN HARRIS.]

"Harris was a Baptist preacher, with a large family. He hired as a substitute for three months. This was the case with most of them. They were ignorant men, but obstinate in what they believed right, and what they had been told by their officers was right. They were all sure they could not be kept beyond three months, and they gave up their Muskets and provisions dealt out to them, from the public stores, before they left the camp. This confirmed their conviction that they were right and doing what was lawful. Col. Russel commanded at the execution, the militiamen were brought to the place in a large waggon. The military dispositions being made, Col. Russel rode up to the waggon and ordered them to descend. Harris was the only one who betrayed feminine weakness. The awfulness of the occasion; his wife and nine children, the parting with his son; and the fear of a quickly approaching, ignominious death, quite overcame him, and he sank in unmanly grief. No feeling of military pride could brace him up.

"Col. Russel doubtless felt as a man, but he felt also for the pride of the army, and desired to animate the men, with fortitude. "You are about to die," said he, by the sentence of a Court Martial—die like men, *like soldiers*. You have been brave in the field—you have fought well; do no discredit to your country or dishonor to the army or yourselves by any unmanly fears. Meet your fate with courage."

"Harris attempted to make some apology for his conduct, but while he spoke, wept bitterly. The fear of death, the idea that he should never again behold his wife and little ones, and his son weeping near him, had taken such entire possession of his mind that it was impossible he should rally.

"Lewis, the gallant Lewis, said in a clear and manly tone, "Colonel, I have served my country well—I love it dearly, and would, if I could, serve longer and better. I have fought bravely—you *know* I have, and here I have a right to say so myself. I would not wish to die, in this way."—Here his voice faltered, and he passed his right hand over his eyes—"I did not expect it: But I am now as firm as I have been in battle, and you shall see that I will die as becomes a soldier. "You know I am a brave man." "Yes, Lewis," said the Colonel; "you have always behaved like a brave man." Other declarations were made, and other words of comfort spoken, but they were lost on me, my attention as an eye witness, being chiefly directed to Lewis. "Six coffins were ranged as directed, and on each of them knelt one of our condemned American Militia Men. Such a sight was never seen before! I trust to God it never will be seen again! Six soldiers were detailed and drawn out to fire at each man. What an awful duty! Their white caps were drawn over the faces of the unhappy men. Harris evidently trembled, and I could almost persuade myself that the heart of Lewis was enlarged, and that his bosom rose with manly courage to meet death. The fatal word was given and they all fell.

"As we approached the scene of blood and carnage, Lewis gave signs of life—the rest were all dead—he crawled upon his coffin. After a lapse of a few minutes, he said, (I give his very word,) "Colonel!"—the Colonel was close to him—"Colonel, I am not killed, but I am sadly cut and mangled." His body was now examined, and it was found that but four balls had wounded him. "Colonel," said he, did I behave well?" "Yes, Lewis," said the Colonel, in the kindest tone of voice, "like a man."

"Well, sir," said he, "have I not atoned for the offence? *Shall I not live?*" The Colonel was much agitated, and gave orders that the surgeon should, if possible, preserve his life. They did all that skill and humanity

could do—it was all of no avail. Poor Lewis expressed a great desire to live; “not,” said he, at one time, “that I fear death, but to repent me of some sins, and I desire to live yet a little longer in the world, and died on the fourth day. He was a brave man, much beloved. He suffered twenty deaths. I have seen the big drops chase each other down his forehead with pain and anguish. There was much sensibility and sympathy throughout the camp. I would not have, unjustly and unnecessarily, signed their death warrant for all the wealth of all the Indies. The soldiers detailed to shoot Lewis, had, from strong feelings of sympathy, or mistaken humanity, failed to shoot him; but four balls entered his body.

“An Eye Witness” appeals to Colonel Russel, who, he thinks, now lives in Alabama, for the perfect truth of this sketch. He does not fear but the Colonel will keenly recollect, and faithfully depict, the horrors of the day on which six Americans were shot to death under his command, but not by his orders.”

JOHN HARRIS'S LETTER TO HIS WIFE. [A LITERAL COPY.]

[February the 20th 1815, Mobile, Fort Charlotte.]

Dear wife. I Take the opportunity of Writing to you for the Last time, as I expect and is well at present thanks Be to God for his Mercys and I Hope these Lines May find you and all the Rest in health I Did not expect to Have Had this awful news, to write to you, But my sentence is Com and to Morrow I have to encounter Death to Morrow by twelve o'clock which is an awful thing to think of and I Know from your To me as a wife to a Husband Has been so Grate that it must Be a Great to you and as such I wish you to Meet it with as much fortitude as possible I hope we shall meet again in the worlds above I wish you Do all you Can to Keep my Children together if possible James has promised me that He will Stay with you and I Hope that my other Two sons, Charles and John will Do all they Can to Keep ther Little Sisters and Brothers from suffering I wish you as soon as James Returns to Move into the settlements and Do the best you Can for it grieves me Hard to part with you All But I must Resign to God and we Have to part some time so I Hope you will Bring my Little son up in the fear of God and my Little Daughters also which from your Conduct I Have no Reason to Doubt But my Little Sons you are young and Grown into Life Be careful of what kind of Company you keep and never Bring yourselves to any Disgrace Learn in time of youth to Love Grace and Truth my mind is pestered and I Can not write as I could wish Remember me to all inquiring friends so my D dear wife and Children, I Bid you a Dieu this from your Loving Husband and Father untel Death.

Mrs. Polly Harris.

JOHN HARRIS.

CASE OF DAVID HUNT.

I, James Hunt, of the County of Rutherford, and State of Tennessee, removed from the State of Virginia to this County in the year 1814. I am the father of David Hunt, one of the “six militia-men” who were shot in the United States, army, in 1815. It has always been, and still is my opinion, that my son did not deserve the death he suffered. Such confidence had I in him, that I thought him incapable of committing an act for which he might deserve to die an ignominious death.

In the late war with great Britain, and with the Indians, I took great pleasure in equipping my son David, that he might engage in the service of his country. He went as a volunteer with the first army that marched against the Creek Indians. I was highly gratified to hear that, in all the battles he acted the part of a brave man, as well as that of an orderly soldier.

In 1814, my son became one of the garrison stationed at Fort Jackson. He went there as a substitute for another man. When he engaged with this man, it was the understanding between them that the term of service would expire at the end of three months. Accordingly, at the expiration of this term, my son came home with several others, both officers and soldiers. My son told me he was advised by persons qualified, as he believed, to give advice on such occasions, that he could not be compelled to serve longer than 3 months.

Soon after my son returned home, it was rumored that he had done wrong in leaving the fort. We reflected that it was possible he might have committed an error. I therefore immediately equipped him with suitable clothing, and he returned as early as he could to his post, without the least apprehension of danger. On his return, however, he was taken and kept in confinement until the 21st of February, 1815; on which day he was put to death. When I heard of his death I was greatly surprised; the intelligence was altogether unexpected. I myself had been a soldier, had fought in the war of the revolution under Washington. From the little knowledge I had

acquired of military discipline under this beloved General, I thought there would be no danger in my son's returning to his post, and acknowledging his error, if he committed one.

JAMES HUNT.

Signed in presence of John Hoover, W. H. Robertson, Thomas Dunaway, James Wade, John Matthews, William Matthews.

CASE OF JOHN WOODS.

State of Tennessee, Franklin County.

February 11, 1823

Being requested to state what I know of the circumstances, attending the trial and execution of John Woods at Fort Strother, during the late war in the Creek Nation, hereby certify that John Woods joined the army at Fayetteville, about the 22d January, 1814, as a substitute in place of Will Roger, who was a volunteer: and continued from that time until he was arrested, to mess with me in the same tent. Woods was about eighteen years old at this time, and was the youngest child of his aged parents, who were then, and had been for some time, living near neighbors to me. I have seen and examined the certificate of Thomas Couch and Robert Ferguson relative to this same matter. I was not present at the dispute which took place between Major Camp and Woods, but immediately afterwards heard the circumstances detailed by various persons in the same manner as stated by Mr. Couch and Mr. Ferguson. At the time of the quarrel I was in the Fort near the tent of General Jackson, and was present when a runner came from Major Camp to inform the General that a man had mutinied; the General immediately rushed out of the Fort, and I followed him; when out, he commenced cursing and swearing, and asked which was the man and Woods was pointed to him; who was then walking in a straight direction to his guard fire; Jackson still continued cursing and repeatedly and in great rage, reiterated shoot the damned rascal! shoot the damned rascal!!! Woods by this time was approaching near to his guard fire, when Jackson commanded the guard, still in a great rage, to blow ten balls through the damned rascal! As soon as Wood approached the guard he gave up his gun and surrendered himself prisoner. The General also bemeaned and abused the officer of the guard for not obeying his orders. Woods was immediately put in irons, and conveyed to, and kept under guard in the 39th Regiment, but was not kept long ironed as I understood.

After some days the friends of Woods, among whom was his brother, became uneasy at his detention in confinement, but without any apprehension of the sad catastrophe which was to follow. I was requested to speak to General Jackson, and accordingly I did so, and requested that his trial should be brought on soon, as we were all desirous, as he was a mere youth, that he might be placed among his friends again, and if there was a punishment; let him receive it and return to his duty. The General said that the case was a serious one, but he could have the opportunity of enlisting. I returned and consulted with his friends about it; and they opposed the idea very strongly. After some further delay I heard part of a conversation between General Jackson and an officer, who I believe was Captain of the Rangers, (Captain Hannard,) in which conversation the General told him that he must be in order on a certain day to set on the Court Martial of a fellow who had mutinied, and who he expected would have to be shot. The officer appeared very reluctant to act: neither did he sit on the trial. From hearing this conversation I became very uneasy, and got leave of the officers of his guard to carry Woods his victuals which was generally cooked in our mess, while with Woods I persuaded him to enlist, as I was fearful of the event from what I had heard; the prisoner appeared to acquiesce, and I left him, but when I told his other friends what I had done, they opposed it violently, stating that Jackson knew that he could not hurt him for what he had done, and only wanted to scare him to enlist, and gratify their spite in that way. From this time until his trial took place nothing particular transpired, and our greatest uneasiness was at his long confinement. I think it was on the 12th day of March, that I heard his trial was progressing; I went to the spot but was not permitted to enter within the lines of the guard; the court martial was then in session between two tents, and Woods was seated eight or ten paces off on some logs, without any friend or adviser or counsel to defend him. Colonel John Williams, of East Tennessee, was acting as I understood, as Judge Advocate against him, as he was making a speech, and reading passages from books; and I think Lieutenants Parish, Davis, and Eusign Hall, were the court martial; if there were any witnesses called to testify in his behalf, I do not know it, neither do I believe it; after looking a while my heart then yearned for what I then considered was the perilous situation of the boy, and I turned away and left the place and heard nothing more of his fate, until next day from ten to twelve o'clock, it was read in the general orders that Woods was to be shot at 12 o'clock next day (14th). Soon after this I received intelligence that Woods wished me to go and stay with him, until he left the world, but before I went, in conjunction with Doctor Fore and others, I handed about a petition for a pardon, which was signed as I thought and believed by most of the officers of the army, and I understood also by the Court Martial; I was present when these petitions were handed to the General, but whether they were handed by myself or some other person I do not recollect.

After some general conversation on the subject, I approached the general, and told him that the prisoner had requested me to go and stay with him until his death; this the General did not refuse; but before I started I made another effort to obtain his pardon. I begged the General to take into consideration his extreme youth and inexperience, that he had left behind him two aged parents, who depended upon him for their support and comfort in their declining years, that such a death would cause them great sorrow and distress. The General replied that he was sorry for his parents, and that there had been several cases before approaching to mutiny in the camps, that there was need of an example, and, said he, by the Eternal God he must be the example, for he must die. I left him and went to the prisoner, where I staid until the guard came to take him to his death.

I will further remark that at the request of the prisoner I wrote down a statement of his feelings, and his last farewell to his father and mother, and sent them in a letter to my wife, and the public are at liberty to see it.

On the news of the death of her son, old Mrs. Woods (as I have been informed by my wife) fainted, and appeared like dying all night—of this I feel certain she never recovered; and many years laid her grey hairs with sorrow in the grave.